

Lynda J. Zadra-Symes (SBN 156,511)  
 Lynda.Zadra-Symes@kmob.com  
 Jeffrey L. Van Hoosear (SBN 147,751)  
 Jeffrey.VanHoosear@kmob.com  
 David G. Jankowski (SBN 205,634)  
 David.iankowski@kmob.com  
 KNOBBE, MARTENS, OLSON & BEAR, LLP  
 2040 Main Street  
 Fourteenth Floor  
 Irvine, CA 92614  
 Phone: (949) 760-0404  
 Facsimile: (949) 760-9502

Attorneys for Defendant/Counter-Plaintiff,  
 KEATING DENTAL ARTS, INC.

IN THE UNITED STATES DISTRICT COURT  
 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
 SOUTHERN DIVISION

JAMES R. GLIDEWELL DENTAL  
 CERAMICS, INC. dba GLIDEWELL  
 LABORATORIES,

Plaintiff,

v.

KEATING DENTAL ARTS, INC.

Defendant.

AND RELATED COUNTERCLAIMS.

Civil Action No.  
 SACV11-01309-DOC(ANx)

**DECLARATION OF MR.  
 SHAUN KEATING IN  
 SUPPORT OF KEATING  
 DENTAL ARTS, INC.'S  
 MOTIONS FOR SUMMARY  
 JUDGMENT**

Date: December 17, 2012

Time: 8:30 a.m.

Location: Courtroom 9D

Honorable David O. Carter

1 I, Shaun Keating, hereby declare as follows:

2 I am the President and Chief Executive Officer of Keating Dental Arts  
3 (“Keating”), the defendant in this case. I have personal knowledge of the  
4 matters set forth herein. If called upon to testify, I could and would testify as  
5 follows:

6 1. In 1985 I graduated from Huntington College of Dental  
7 Technology.

8 2. From 1984 to 2002 I worked at Glidewell Laboratories. For most  
9 of that time I was the crown and bridge manager in the fixed prosthodontics  
10 department, where I managed the employees in that department.

11 3. In September 2002 I founded Keating Dental Arts in Santa Ana,  
12 California. A few years later I relocated the laboratory to a location in Irvine,  
13 California. Keating Dental Arts is presently operating in that facility.

14 4. Attached as **Exhibit A** is a true and correct copy of Keating Dental  
15 Arts’ fee schedule for calendar year 2006. This document was distributed to our  
16 dentists/customers in or about December 2005 and/or January 2006. The fee  
17 schedule included our “KDZ Zirconia” dental restoration, which was a porcelain  
18 top layer atop a zirconia bottom layer.

19 5. Attached as **Exhibit B** is a true and correct copy of Keating Dental  
20 Arts’ fee schedule for calendar year 2007. This document was distributed to our  
21 dentists/customers in or about December 2006 and/or January 2007.

22 6. Attached as **Exhibit C** is a true and correct copy of a Keating  
23 Dental Arts brochure distributed in or about January 2007. In 2006, Keating  
24 Dental Arts was a 2006 Townie Choice Award winner for the Best Crown and  
25 Bridge Laboratory. The award was given by Dental Town, a dental industry  
26 organization. The brochure attached as Exhibit C references that award and our  
27 KDZ product.

28 7. Attached as **Exhibit D** is a true and correct copy of a Keating

1 Dental Arts marketing mailer sent to our dentists/customers in or around  
 2 October 2007. The mailer invited our customers to visit our booth at a dental  
 3 industry trade show (the Greater New York Dental Meeting) that was held on  
 4 November 25-28, 2007.

5 8. Attached as **Exhibit E** is a true and correct copy of an assemblage  
 6 of Keating Dental Arts advertisements from the calendar year 2008.

7 9. Attached as **Exhibit F** is a true and correct copy of a form letter  
 8 sent by U.S. Mail at my direction on March 31, 2011 to Keating's existing  
 9 customers/dentists at that time. Each Keating customer received this letter with  
 10 their name, address, and last name entered in the bracketed locations shown on  
 11 the form letter. I had the letter sent out to introduce our customers to Keating  
 12 Dental Arts' new KDZ product family (KDZ Bruxer; KDZ Ultra; KDZ Max)  
 13 and to discuss product prices that would become effective on May 1, 2011.

14 10. Prior to adopting "KDZ Bruxer," which stands for "Keating Dental  
 15 Zirconia," I conferred with my trademark attorney, Thomas Gourde, about  
 16 Keating Dental Arts possible use of the name "KDZ Bruxer" for its new full  
 17 contour zirconia crown. I conferred with Mr. Gourde because I did not want to  
 18 use a name that would result in liability for Keating Dental Arts.

19 11. For the new KDZ family of products, we developed a similar-  
 20 looking family of marks, as shown below:



25 12. As part of the introduction of the new KDZ family in 2011, we  
 26 rebranded the "KDZ Zirconia" layered dental restoration product (sometimes  
 27 called "KDZ CAD/CAM Zirconia") that we have been selling since 2006 as the  
 28 "KDZ Ultra." We have been selling that product continuously since 2006. That

1 product has always been Keating Dental Arts' best selling Zirconia product.

2

3 I declare under penalty of perjury under the laws of the United States of  
4 America that the foregoing is true and correct.

5 Executed November 19, 2012, in Irvine, California.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

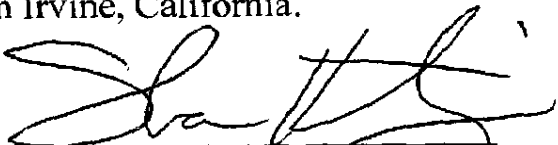
24

25

26

27

28

  
Shaun Keating